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OFFICE OF PETITIONS

In re Application of
DiDomenico, et al.
Application No. 09/709,935
Filed: 13 November, 2000
Attorney Docket No. 23439-054-402

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ON PETITION

This is a decision on the renewed petition under 37 C.F.R. §1.47, filed on 24 November, 2003.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- this application was filed on 13 November, 2000, without an executed oath or declaration by the named inventors John DiDomenico (Mr. DiDomenico), Craig S. Rendahl (Mr. Rendahl) and James H. Johnson (Mr. Johnson);
- accordingly, a Notice of Missing Parts was mailed on 2 March, 2001;
- in response to the Notice of Missing Parts, Petitioner filed on 4 September, 2001, and resubmitted via FAX on 7 December, 2001, *inter alia*, a request and fee for a four- (4-) month extension of time, the surcharge and the instant petition;
- the original petition, filed on 4 September, 2001, was dismissed on 22 May, 2003, for failure to demonstrate the required (a) proprietary interest/irreparable harm and (b) showing that the non-signing inventor(s) had been sent the entire application at their last-know mailing address(es), which address(es) Petitioner had made a diligent effort to determine.

With the instant petition, Petitioner has shown proprietary interest/irreparable harm and that, while inventor Mr. Rendahl has signed the oath/declaration, the non-signing inventors **Mr. DiDomenico** and **Mr. Johnson** have refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Bradford C. Blaise (Reg. No. 47,429) and that of Assignee's (Envirotest Systems Corporation (ESC)) employee Niranjjan Vescio establish that the non-signing inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
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Office of Petitions